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THE INDIAN BOUNDARY LINE¹

WHEN the Seven Years' War, with its American phase, the French and Indian War, resulted in giving to Great Britain a clear title in America to all the country east of the Mississippi river, the British government was confronted with an Indian question requiring a better solution than was to be found in the uncertain and somewhat shifting policy that had hitherto prevailed. The problem was not the simple one of providing an adequate defense for outlying colonial settlements against Indian attacks; to protect the Indians in the possession of their hunting-grounds was of equal moment. The significance of the latter motive can only be appreciated when it is recognized that this was undertaken, not merely to safeguard an abstract right, but also because it was a measure of practical necessity in the interests of the fur-trade. There were other aspects of the problem, for other interests were involved, but none which need to be considered here beyond the very evident fact that the government was unwilling, particularly just at this time, to be put to any great expense.

The question was not a new one. It began with the arrival of the first colonists, and became of increasing importance with each successive advance of settlement. But it had been a local question or, rather, a series of local questions, until the expansion of the colonies had brought about the final struggle with the French. During that struggle to some extent, but still more plainly when Britain had succeeded France in control of Canada, and her possessions formed an unbroken whole from north to south and from the Atlantic to the Mississippi, the Indian question was no longer local; it was continental in its scope and demanded an adequate solution. Pending the adoption of a definitive policy as well for the government of the new possessions as for the settlement of the Indian question, a royal proclamation was issued on October 7, 1763.² This

¹ Mr. Ernest Hawley Duval, a graduate student at Leland Stanford Junior University, has been of great assistance in the preparation of this article. In addition to this, Mr. Duval prepared the accompanying map, page 784.

² Text in *Annual Register*, 1763, 208-213. As preliminary to the proclamation, cf. instructions to the colonial governors, *New York Colonial Documents*, VII, 478-479; *New Jersey Archives*, first series, IX, 321-329. The purpose of the proclamation of 1763 has ever been disputed. The position here taken that it was temporary in its nature is clearly revealed in the official correspondence, references to which are given in subsequent notes.

proclamation erected separate and distinct governments in Quebec, East Florida, and West Florida; and for the protection of the Indian hunting-grounds it forbade the granting of lands in these new colonies beyond their respective boundaries, and in the other colonies "for the present . . . beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or north-west."¹

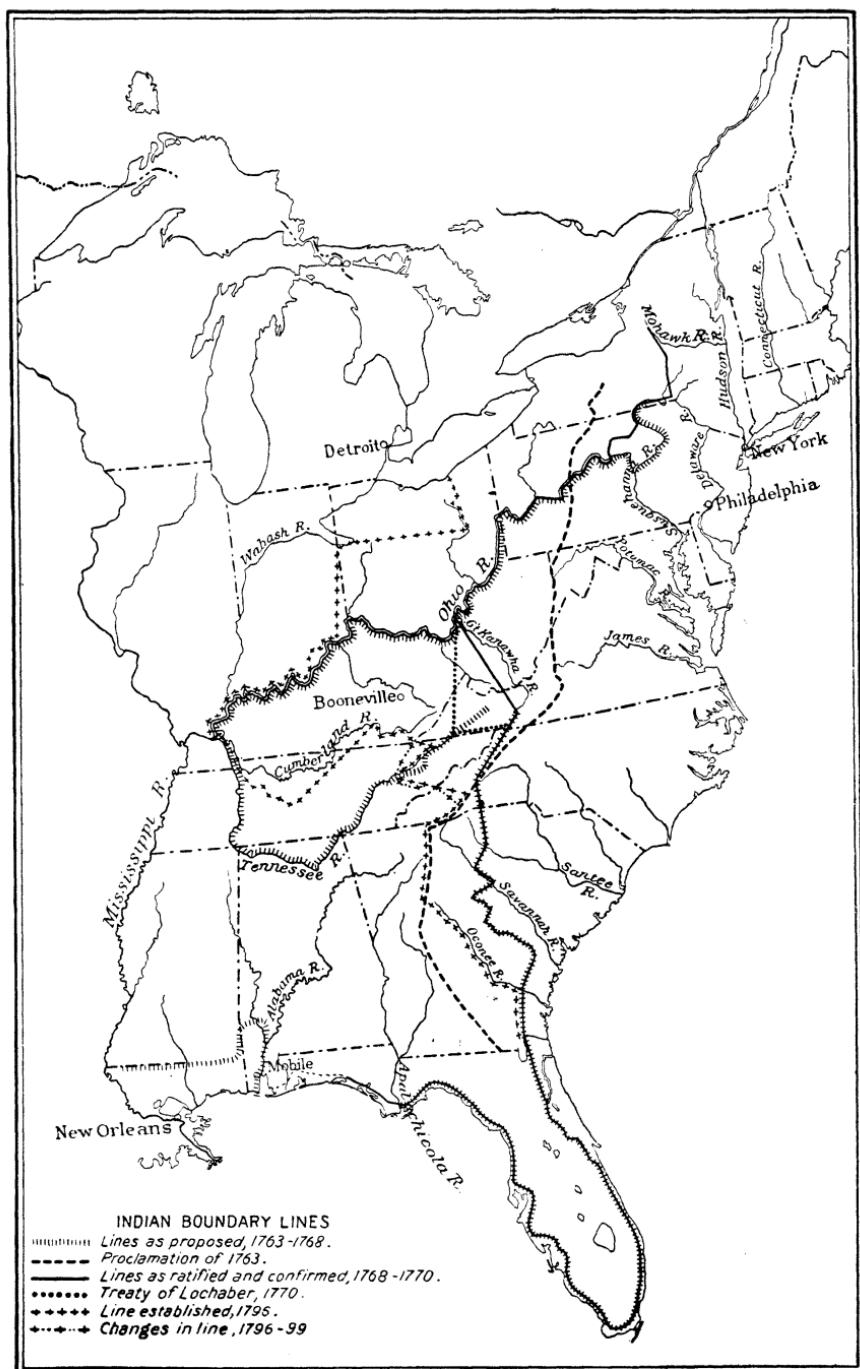
The Lords of Trade, to whom the management of Indian affairs was intrusted, set about their task with an evident appreciation of the importance and of the difficulty of the undertaking. At every stage of their deliberations, so far as time and distance would permit, they sought the advice of the superintendents of Indian affairs—Sir William Johnson of the Northern District, and Captain John Stuart of the Southern District. The first draft of a bill to be submitted to Parliament was held back to await the reports of the American superintendents; and when their letters had been received, the Lords of Trade acknowledged that these "have enabled us to make additions to and improve our plan". The heads of the plan as thus modified were then sent to Johnson and Stuart "for your opinion upon it which . . . we hope to receive . . . before the meeting of Parliament".²

Just when and how the idea originated, of a continuous boundary line to separate the whites and the Indians, it is perhaps impossible to determine. In all probability, however, it was a matter of slow growth. The establishment of a more or less definite line to mark the limits of the whites or of the Indians, as the case might be, had been a practice almost universal. As colonial settlements expanded and united action in dealing with the Indians became more common, the extension and unification of such lines was an inevitable result. It is not surprising then to find Sir William Johnson, as his jurisdiction comprised a definite section of the colonies and in the main a single confederacy of the Indians, strongly advocating in 1763 "that a certain line should be run at the back of the Northern Colonies, beyond which no settlement should be made, until the whole Six Nations should think proper of selling part thereof".³ Dean Tucker's fanciful scheme, to guard against the incursions of the Indians by "clearing away the woods and bushes from a tract of land, a mile in breadth, and extending along the back of the colo-

¹ The line thus established is shown on the map on page 784.

² *New York Colonial Documents*, VII, 535-536, 572-581, 634-636; *Pennsylvania Archives*, IV, 189-192.

³ *New York Colonial Documents*, VII, 578, 603; *New Jersey Archives*, X, 112, note 1.



nies",¹ could hardly have been taken seriously or have exercised any considerable influence in shaping the governmental policy in this particular. Both the superintendents recognized that encroachments upon their lands were the chief ground of Indian complaints and the cause of war; accordingly they urged the establishment of a boundary line, and it is a sufficient explanation of the adoption of this feature of policy. Indeed, it is the explanation the Lords of Trade themselves gave for the "provisional management in the proclamation of 1763" and for the proposal in the plan prepared in 1764.²

The heads of the plan, which was prepared in 1764 and submitted to the superintendents in America with a request for their opinions upon it, outlined in forty-three sections or articles a somewhat elaborate scheme for the future management of Indian affairs.³ The forty-second article proposed "That proper measures be taken with the consent and concurrence of the Indians to ascertain and define the precise and exact boundary and limits of the lands which it may be proper to reserve to them and where no settlement whatever shall be allowed." Johnson and Stuart both approved the plan,⁴ yet the British government failed to act. Johnson attributed this "to the late disturbances in the Colonies that required so much the attention of his Majesty's Ministers",⁵ and the Lords of Trade admitted that it was owing to "other pressing business".⁶ When action was finally taken in 1768, the plan of 1764 was laid aside. It was explained that this was because of the difficulty and expense involved,⁷ but Colonel Guy Johnson was probably right in ascribing this unfavorable action to the influence of "some Indian traders", whose interests were affected.⁸

When the proposals submitted in 1764 seemed to promise the fulfilment of their recommendations, both Johnson and Stuart apparently felt that the formal enactment of the plan was only a question of time. At any rate, although they were quite unauthorized to do so, the superintendents proceeded to negotiate with the Indians of their respective districts upon the all-important subject of the

¹ *The Works of Benjamin Franklin* (Sparks's ed.), III, 47-48, note.

² *New York Colonial Documents*, VII, 1004.

³ *Ibid.*, VII, 637-641; *Pennsylvania Archives*, IV, 182-189.

⁴ *New York Colonial Documents*, VII, 657-666; VIII, 24.

⁵ *Ibid.*, VII, 835-836.

⁶ *Ibid.*, 842.

⁷ *Ibid.*, VIII, 24, 55-56, 57; *Pennsylvania Archives*, IV, 319-320.

⁸ *New York Colonial Documents*, VIII, 655. For a similar instance of trading interests influencing the British government, see Parkman's explanation of the determination of Braddock's line of march through Virginia and Maryland instead of the more direct route by way of Philadelphia. *Montcalm and Wolfe* (Frontenac edition), I, 203-204.

boundary line.¹ Johnson, as was natural from his long experience of the uncertainty of royal approval, proceeded cautiously. In a conference with the Six Nations, held in the spring of 1765 for a very different purpose, he broached the subject, but, as he was careful to explain in his report to the Lords of Trade, "I only proposed it as a matter verry essential to their own Interest."² The suggestion met with the Indians' approbation, and after some little negotiations, which were handled with Johnson's usual skill and address, a line that was satisfactory to both parties was tentatively agreed to. Sir William promised to "lay the same before the great King, which is all can be at present done in it".³ And he again took occasion to say, "as what you have proposed about the Boundary is your own free proposition . . . I expect never to hear any grumbling about it . . . ; if the King approves of what is done, . . . you shall have notice of it."⁴

Colonel Stuart in the Southern District acted more boldly and without reservation. Within two years after receiving the proposed plan for the management of Indian affairs, he entered into a series of treaties with the Southern Indians supplementing the treaty of Augusta of 1763, by which a continuous boundary line between the whites and the Indians was established beginning at a point near the southern boundary of Virginia, running south and west at the back of the Carolinas, bending somewhat toward the east in Georgia, and including the tide-water limits of East Florida.⁵ It was evidently intended to extend this line as far as the Mississippi river, but its exact determination in West Florida is somewhat doubtful,⁶ and there appears to have been somewhat of a break between the Appalachicola river and Mobile bay.⁷ This line was not merely

¹*New York Colonial Documents*, VII, 1004-1005; *North Carolina Colonial Records*, VII, 536-538.

²*New York Colonial Documents*, VII, 711-712.

³*Ibid.*, 733.

⁴*Ibid.*, 734.

⁵The determination of the Indian boundary line was made a special subject for investigation with a small class of advanced students at Stanford University, who were of great assistance in the settlement of doubtful points and in furnishing data for the map that accompanies this article.

⁶This uncertainty has been reduced to a minimum through the courtesy of Honorable Peter J. Hamilton of Mobile, who furnished information, subsequently embodied in a communication to the *Clarke County (Alabama) Democrat*, March 30, 1905, which determines the location of this line quite accurately and somewhat differently from that which he had earlier stated in his *Colonial Mobile*.

⁷Except in so far as this may have been covered by the very indefinite line in the treaty with the Creeks at Pensacola, May 28, 1765. Charles C. Royce and Cyrus Thomas, "Indian Land Cessions", *Eighteenth Annual Report of the Bureau of American Ethnology*, 560.

agreed upon, but in some places it was actually surveyed and marked.¹

The responsibility now rested with the British government to approve or reject the actions of its American agents. Toward the close of 1767 the Lords of Trade reported to the earl of Shelburne what had been done,² and in March, 1768, a more detailed report was made to the crown with the formal recommendation that the boundary line be ratified.³ Shortly afterward instructions were given to the superintendents in America to ratify and confirm the lines agreed upon in such manner as to form a continuous line from north to south.⁴

In the south Stuart apparently had little difficulty in carrying out his orders. Two treaties were concluded, one with the Cherokees on October 14, and one with the Creeks on November 12, 1768, by which the former line—back of the Carolinas and Georgia and around East Florida—with very slight modifications was formally confirmed. In accordance with his instructions the line back of Virginia was carried from its earlier termination to the junction of the Kanawha and the Ohio, thus rendering possible a line continuous with that in the north.⁵ In the far southwest the line was continued to the Choctaw river emptying into Santa Rosa bay, but beyond that point, quite probably because of the difficulty of assembling the Choctaws who were then at war with the Creeks, no record of any action appears.⁶

Johnson's task in the north was a more difficult one, and the negotiations in the well-known treaty at Fort Stanwix in 1768 were continued over several weeks. Through New York and Pennsylvania the line agreed upon in 1765 with some important extensions was successfully established, but it was not carried to the northern

New York Colonial Documents, VII, 1004-1005; VIII, 22-34; *Pennsylvania Archives*, IV, 281, 313-325; *North Carolina Colonial Records*, VII, 468-471.

New York Colonial Documents, VII, 1004-1005; *North Carolina Colonial Records*, VII, 536-538.

New York Colonial Documents, VIII, 19-34; *Pennsylvania Archives*, IV, 313-331.

New York Colonial Documents, VIII, 2, 35-36, 55-56; *North Carolina Colonial Records*, VII, 707-709; *Pennsylvania Colonial Records*, IX, 552-553.

North Carolina Colonial Records, VII, 851-855. C. C. Royce, "The Cherokee Nation of Indians" (*Fifth Annual Report of the Bureau of American Ethnology*, 146), evidently relying upon J. G. M. Ramsey, *Annals of Tennessee* (Philadelphia, 1853), 77, which in turn was based upon John W. Monette, *Valley of the Mississippi* (New York, 1846, 2 vols.), I, 352, has been misled as to the location of this line which was agreed upon with the Cherokees at Hard Labor, 1768.

⁶ *North Carolina Colonial Records*, VII, 866; *New York Colonial Documents*, VIII, 160-161.

boundary of New York because it was believed that this could be accomplished more advantageously at some other time. To render the line continuous with that in the south was finally deemed inadvisable. The Six Nations claimed the land between the Ohio and Tennessee rivers as theirs by right of conquest, and in assertion of their sovereignty they insisted upon ceding it to the British. Rather than lose the other advantages obtained, Johnson accepted this, although by so doing he disregarded his instructions and formed an overlapping instead of a continuous line.¹ Mainly on this account, but also because other unwarranted matters were included in the treaty, the British government hesitated to give its approval. When, however, it was evident that Johnson had acted for the best, he was empowered to ratify and confirm the line as agreed upon.² This was formally done in July, 1770,³ and the line was afterward surveyed and marked.⁴

In the meantime, an important modification of the line in the south was being made. It was found that certain settlements were west of the line established at the back of Virginia. Accordingly quite early in 1769 Stuart had been instructed to negotiate with the Cherokees for a new line to include these lands. By the treaty of Lochabor, October 22, 1770, it was agreed that the Indian boundary should be marked by a continuation of the southern line of Virginia to where it intersects the Holston river, and from that point by a direct line to the junction of the Great Kanawha with the Ohio.⁵

Thus after several years of earnest endeavor and careful negotiations the desire of the American superintendents of Indian affairs was an accomplished fact. A definite line separating the Indians from the whites had been agreed upon, officially approved, and was a recognized feature of the British Indian policy. In the treaties by which this was established it was agreed that neither whites nor Indians should make any settlements or encroachments upon the lands reserved to the other unless cessions of such lands had been

¹ *Ibid.*, VIII, 110-137, 152.

² *Ibid.*, 144-145, 158-163, 165-166, 179-182, 211-212, 222-223.

³ *Ibid.*, 224-244.

⁴ *Ibid.*, 548-562. There seems to be a prevalent impression (cf. Winsor, *Westward Movement*, 20) that the Fort Stanwix line was never formally approved by the British government. The evidence on the other side, however, as given in the above references seems irrefutable.

⁵ *Virginia Magazine of History and Biography*, IX, 360-364. It was afterward discovered that the principal settlements meant to be included were south of the Virginia line and within the boundaries of North Carolina. This confusion led in the formal treaty to the description of a line geographically impossible. The statement made above in the text is in accord with the evident intention of the treaty.

previously made by persons properly authorized. And it was a part of the general plan that the colonies should pass laws for the observance of this agreement.¹ In many places the natural features of the country were sufficient to mark the line clearly. Where this was not the case, care was taken that no one should trespass unwittingly. In 1769 Stuart wrote to Hillsborough from Charles Town² "I . . . rode along that part of it [the Boundary Line] which divides this Province from the Lands reserved by the Indians it is marked at least 50 feet wide the Trees within which Space are blazed on both sides."³ The success or failure of the policy under British administration could not be determined, for the troubles that culminated in the Revolution were already absorbing the attention of both England and the colonies, but that the establishment of a boundary line was considered the most satisfactory solution of a difficult question is evidenced by later developments.

For some time after the treaty of 1783 had formally recognized the independence of the United States, relations with the Indians were in a condition far from satisfactory.⁴ Animosities kindled in the war were not yet quieted. A firm and consistent policy was required, and this was impossible. Even if individual states had not insisted upon the right of dealing independently with the Indians, Congress was hardly competent to handle the question. Several futile attempts were made by Congress to establish a uniform line in the region northwest of the Ohio,⁵ and in the south the states were handling the question according to local interests and prejudices.⁶ In consequence the Indian policy was characterized by a greater uncertainty than had prevailed before 1760.

With the inauguration of the new Constitution in 1789, a change was made for the better in the establishment of a central government with competent authority to handle the situation, but for a few years

¹ *New York Colonial Documents*, VIII, 23, 56, 133; *Pennsylvania Colonial Records*, IX, 552, 555; *North Carolina Colonial Records*, VII, 708.

² *Ibid.*, VIII, 1-2.

³ The accompanying map is designed to show the approximate limits of settlement placed by the proclamation of 1763, with the boundary line as it was first negotiated with the Indians in the treaties of 1765-1768, and as it was finally ratified. For purposes of comparison the line that was later established by the United States government, with its subsequent modifications, is also given.

⁴ Between 1770 and 1783 different cessions of land were made by the Indians and, though these cessions made no specific reference to the boundary line, they necessarily affected the line established later by the United States.

⁵ October 15, 1783, May 20, 1785, *Journals of Congress* (Washington, 1823), IV, 294, 520; *Secret Journals of Congress*, I, 255-262, 274-279; *Pennsylvania Archives*, X, 119-124, 561-562.

⁶ *Journals of Congress* (ed. of 1823), IV, 766-768, August 3, 1787.

the improvement was not marked. Then came Wayne's victory at Fallen Timbers, and the resulting treaty of Greenville in 1795 established a definite line for the Northwest Territory. At the same time the victories of Sevier and Robertson in the south, with the treaties following, established a similar situation in that section of the country. Congress promptly took advantage of the opportunity and passed an act¹ unifying the results of the various treaties and establishing a continuous boundary line from Lake Erie to Florida, which was to be distinctly marked. To settle, to range stock, to hunt, or, in the south, even to cross without a passport, beyond the boundary, was made punishable with imprisonment of from three months to a year, or with a fine of from fifty to one thousand dollars. Indian lands could be obtained only by treaty "entered into pursuant to the constitution" and negotiated by duly authorized officials of the United States. Before this act had expired in 1799 another was passed, which was virtually a reënactment of the former, except that the boundary line was modified in accordance with the treaties that had since been made.² The same action was repeated in 1802.³

The acquisition of Louisiana in 1803 modified the conditions but did not materially alter the feature of Indian policy we are considering. It was now possible to offer the Indians an almost unlimited extent of territory if they would consent to move out beyond the settlements upon the Mississippi. It is worth noticing that it was neither Jackson, nor yet Monroe, but Jefferson who inaugurated this so-called "removal policy", and that it was formally broached in one of the first acts with reference to the new possessions.⁴ Thirty years later, when the removal policy was being successfully carried out, Congress established by statute⁵ the "Indian Country", consisting of the United States territory west of the Mississippi not included in the states of Missouri and Louisiana and the territory of Arkansas. It was, of course, nothing more nor less than the old Indian boundary line re-established beyond the Mississippi. There was, however, this important difference: the United States and not the Indians determined the location of the line. It was also the beginning of the end. The expansion of population to the Pacific, the adoption of regular routes of travel, the guarding with United States troops of those routes and of the settlements that were established, hemmed in the Indians first on one side and then on another.

¹ *United States Statutes at Large*, May 19, 1796, chap. 30.

² *Ibid.*, March 3, 1799, chap. 46.

³ *Ibid.*, March 30, 1802, chap. 13.

⁴ *Ibid.*, March 26, 1804, chap. 38, section 15.

⁵ *Ibid.*, June 30, 1834, chap. 161.

And when the Indians were completely surrounded, the reservation system was only a question of time.

Aside from any intrinsic value in the study here presented, a distinct interest attaches to it as another illustration of the development of British colonial practice into American national policy.

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